

IN THE SENATE OF THE UNITED STATES.

APRIL 5, 1880.—Ordered to be printed.

Mr. FARLEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 1077.]

*The Committee on Pensions, to whom was referred the bill (S. 1077) granting a pension to William J. Elgie, submit the following report:*

It appears from the papers in this case that claimant was a corporal in Company H, Twenty-second United States Infantry; that on May 25, 1876, at Detroit, Mich., he was witnessing the firing of a salute by the cadets of the Detroit High School; that one of the cadets having been temporarily disabled, claimant took his place at a field-piece, and that while there employed he lost his right hand by a premature explosion of the piece. The arm was amputated about four inches above the wrist, and claimant was soon after discharged from the service and admitted to the Soldiers' Home in Washington, D. C., where he now is.

Claimant alleges that J. Sumner Rogers, second lieutenant First Regiment United States Infantry, was on duty at the time the accident occurred as military instructor of the Detroit High School, by order of the President, and that said Rogers ordered him to take his place at the gun, and that he was thus, in a certain sense, in the line of duty. Lieutenant Rogers certifies in 1877, when application for pension was filed, that he "called on Corporal Elgie to take his place, and that he promptly complied."

On the other hand, Capt. J. B. Irvine, commanding Company H, Twenty-second Infantry, certifies on the certificate of disability for discharge that "the service was voluntary and not in the line of duty," and at the same time Assistant Surgeon J. B. Girard, United States Army, certifies on information that "the disability was not contracted in the line of duty." These last certificates were made at the time of discharge and without reference to their bearing upon any claim that might be made for pension, and only with a view to report the facts of the case to the War Department, and hence are entitled to special credit. The Adjutant-General, to whom the case was submitted, also holds that claimant was not in the line of duty.

The claim has been rejected by the Pension Bureau on the ground that the applicant was not in the line of duty when he received the alleged disability.

Your committee are of the opinion that it is not advisable to establish precedents of paying pensions to persons in the military and naval service of the United States who receive injuries when on leave of absence or not in the line of duty, and therefore recommend that the bill be rejected.

